Court No.3

Criminal Revision no. 93 of 2002

Ashok Kumar ..Revisionist

Versus

Family Court,Dehradun
and others ...Opposite parties.

Hon'ble Irshad Hussain J.

This is a revision against the order dated 25.09.2002 passed by the Principal Judge, Family Court Dehradun. The order was passed in the proceedings pending for setting aside of the exparte judgment and order passed under section 125 of the Code of Criminal Procedure (for short 'Code') on the application of the wife.

The revisionist alleged to have not received the summons or notice of the application and also claimed that address was wrongly mentioned in the application under section 125 of the Code. Considering this the revisionist may have a good ground for having the exparte judgment and orde4r set aside and keeping in view this aspect, the learned Principal Judge should not have saddled the liability on the revisionist to deposit entire amount of maintenance due before the disposal of the application for setting aside the exparte judgment and order. Considering this, the order so passed need to be modified to the extent that during the pendency of the application for setting aside the exparte judgment and order the revisionist-husband shall pay the maintenance allowance awarded to the respondent-wife and children at the rate as mentioned in the judgment and order dated 10.09.2001 and he shall not be required to deposit the arrears before the disposal of the application. With this observation, the petition is finally disposed of.

(Irshad Hussain J.)

11.10.02/B.